

Board of Review
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Issue ID: 0021 6195 76

BOARD OF REVIEW DECISION

Introduction and Procedural History of this Appeal

The claimant appeals a decision by Margaret Blakely, a review examiner of the Department of Unemployment Assistance (DUA), to deny the claimant benefits following his separation from employment on April 20, 2017. We review, pursuant to our authority under G.L. c. 151A, § 41, and affirm.

On May 9, 2017, the agency initially determined that the claimant was not entitled to unemployment benefits. The claimant appealed, and only the claimant attended the hearing. In a decision rendered on July 8, 2017, the review examiner affirmed the agency determination, concluding that the claimant voluntarily left employment without good cause attributable to the employer and, thus, was disqualified, under G.L. c. 151A, § 25(e)(1). The Board accepts the claimant's application for review.

Ruling of the Board

After considering the recorded testimony and evidence from the hearing, the review examiner's decision, and the claimant's appeal, we conclude that the review examiner's findings of fact are supported by substantial and credible evidence. We also agree that, ultimately, the claimant is not eligible to receive benefits, pursuant to G.L. c. 151A, § 25(e)(1).

We agree with most of the reasoning used by the review examiner in Part III of her decision. However, we disagree with the conclusion that the claimant had a valid workplace complaint against the employer. The review examiner found that while working in [City A], the employer promised the claimant his own ward. In her conclusion, the review examiner stated that "the employer's failure to fulfill a promise made to the claimant" constituted a valid workplace complaint. We disagree.

Not every broken promise or unfulfilled agreement creates good cause to resign. The disputed issue, or the change to the employment relationship, or the unfulfilled obligation by the employer must be substantial or material to the employment relationship. *See, e.g. Graves v. Dir. of Division of Employment Security*, 384 Mass. 766, 768 (1981) (*substantial* decline in wages may render a job unsuitable and constitute good cause to resign). Here, the claimant was continuing to perform housekeeping duties in the [City A] VA. Nothing about his job duties or pay rate was changed by the employer. The claimant specifically testified that the lack of an assigned ward did not harm him physically or medically. Moreover, the claimant had worked for

approximately one year without his own ward in [City A] prior to resigning. Thus, we conclude that the claimant merely preferred to have his own ward. It was not essential, or material to his job duties, that he have his own assigned ward. It was merely more convenient for him.

The employer's failure to assign him his own ward did not create good cause for him to resign. As noted by the review examiner in Finding of Fact # 8, "the claimant became tired of working in various wards throughout the [City A] location." This general dissatisfaction and unhappiness with where he was assigned in the building was not a reasonable workplace complaint. See Sohler v. Dir. of Division of Employment Security, 377 Mass. 785, 789 (1979).

The review examiner's decision is affirmed. The claimant is denied benefits for the week beginning April 16, 2017, and for subsequent weeks, until such time as he has had at least eight weeks of work and has earned an amount equivalent to or in excess of eight times his weekly benefit amount.

BOSTON, MASSACHUSETTS
DATE OF DECISION - August 1, 2017



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Member Judith M. Neumann, Esq. did not participate in this decision.

ANY FURTHER APPEAL WOULD BE TO A MASSACHUSETTS STATE DISTRICT COURT OR TO THE BOSTON MUNICIPAL COURT (See Section 42, Chapter 151A, General Laws, Enclosed)

The last day to appeal this decision to a Massachusetts District Court is thirty days from the mail date on the first page of this decision. If that thirtieth day falls on a Saturday, Sunday, or legal holiday, the last day to appeal this decision is the business day next following the thirtieth day.

To locate the nearest Massachusetts District Court, see:
www.mass.gov/courts/court-info/courthouses

Please be advised that fees for services rendered by an attorney or agent to a claimant in connection with an appeal to the Board of Review are not payable unless submitted to the Board of Review for approval, under G.L. c. 151A, § 37.